

**FILED**

**FEB 19 2020**

Clerk, U S District Court  
District Of Montana  
Billings

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

KEVIN BRANDT,

Plaintiff,

vs.

OLD DOMINION FREIGHT LINE,  
INC., TOM LILLYWHITE, SCOTT  
GOODRICH, and JOHN DOE  
DEFENDANTS 1-6,

Defendants.

CV 18-128-BLG-SPW

ORDER

Before the Court is Plaintiff Kevin Brandt's motion to strike the reply brief of the Defendants and request for sanctions.

**I. Background**

The Court's scheduling order set a motions deadline of December 15, 2019. (Doc. 15 at 2). The deadline was listed as the "fully briefed" deadline. (Doc. 15 at 2). On November 15, 2019, the Defendants filed a motion for summary judgment. On December 6, 2019, Brandt filed his response. On December 20, 2019, the Defendants filed their reply.

## **II. Discussion**

Brandt argues the fully briefed deadline includes reply briefs. The Defendants argue the fully briefed deadline includes only the opening brief and the response brief, since under local rules a motion is considered ripe for the Court's ruling when the response is filed.

Under Local Rule 7.1(d)(1)(D), "a motion is deemed ripe for ruling at the close of the time for response," but under Local Rule 7.1(d)(1)(C), the moving party "may file a reply within 14 days after the response was filed." The Court acknowledges the term "fully briefed" as used in its scheduling order is ambiguous under the local rules. The Court will alter its scheduling orders in the future to clarify the ambiguity. The motion to strike the reply brief is denied because Brandt identifies no prejudice resulting from the filing of the reply brief. The motion was timely filed and Brandt was able to timely respond. He has been heard on the matter. The reply brief was an optional filing which was filed within the 14 day period provided by local rule.

## **III. Conclusion and order**

Brandt's motion to strike Old Dominion's reply brief (Doc. 98) is denied.

DATED this 18<sup>th</sup> day of February, 2020.

  
SUSAN P. WATTERS  
United States District Judge